

BILL NO. S-82-09- 20

SPECIAL ORDINANCE NO. S- 183-82

AN ORDINANCE approving an Agreement with Yardley, Inc., for the construction of a sanitary sewer.

BE IT OPDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the Agreement dated July 14, 1982 between the City of Fort Wayne, by and through its Mayor and the Board of Public Works and Yardley, Inc., Developer, for:

Sanitary Sewer - Lateral #1

Commencing at a new manhole at Station 0 + 00 located plus or minus 190 foot west of the center line of Maplecrest Road and 30 foot south of the south right-of-way line of Midfield Drive at its intersection with Maplecrest Road; thence continuing south within a 15 foot sanitary sewer easement a distance of 180 feet to Manhole #2 at Station 1 + 80; thence continuing southerly through the said easement a distance of 350 feet to Manhole #3 at Station 5 + 30; thence continuing south a distance of 140 feet to a cleanout at Station 6 + 70, said cleanout ends Sanitary Sewer Lateral #1;

Sanitary Sewer - Lateral #2

Commencing at Manhole #2 located on the above referenced Sanitary Sewer Lateral #1, thence west a distance of 71 feet to Manhole #4, said Manhole being located within a 20 foot utility easement along the west right-of-way line of Yardley Court; thence south a distance of 349 feet to Manhole #5 at Station 415; thence continuing south a distance of 120 feet to a cleanout located at Station 5 + 70, said cleanout terminates Sanitary Sewer Lateral #2;

of which the Developer shall pay the entire cost and expense of the construction of said sewer, all as more particularly set forth in said Agreement, which is on file in the Office of the Board of Public Works, and is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved. Two copies of said Agreement are on file with the Office of the City Clerk and made available for

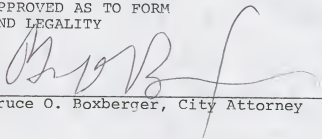
Page Two

public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Burns, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee City of Fort Wayne (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 9-14-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Burns, seconded by Stier, and duly adopted, placed on its passage. PASSED (Lost) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCRUGGS</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 9-28-82

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)

(APPROPRIATION) ORDINANCE (RESOLUTION) NO. S-183-82
on the 28th day of September, 1982

ATTEST:

(SEAL)

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th day of September, 1982, at the hour of 11:30 o'clock PM, E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 4th day of Oct, 1982, at the hour of 10 o'clock A.M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

BILL NO. S-82-09-30

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN
ORDINANCE approving an Agreement with Yardley, Inc., for the
construction of a sanitary sewer

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE 20 PASS.

PAUL M. BURNS - CHAIRMAN

MARK E. GIAQUINTA - VICE CHAIRMAN

JAMES S. STIER

JANET G. BRADBURY

ROY J. SCHOMBURG

DATE

CONCURRED IN

CHARLES W. HARRIS

72-40-28
7/14/82

AGREEMENT
FOR
SEWER EXTENSION

THIS AGREEMENT, made in triplicate this 14 day of July, 1982, by and between Yardley, Inc., hereinafter referred to as "Developer", and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "City".

WITNESSETH:

WHEREAS, the Developer desires to construct a sanitary sewer, hereinafter referred to as "Sewer", and is more particularly described as follows:

Description of Sanitary Sewer Lateral #1

Commencing at a new manhole at Station 0 + 00 located plus or minus 190 foot west of the center line of Maplecrest Road and 30 foot south of the south right-of-way line of Midfield Drive at its intersection with Maplecrest Road; thence continuing south within a 15 foot sanitary sewer easement a distance of 180 feet to Manhole #2 at Station 1 + 80; thence continuing southerly through the said easement a distance of 350 feet to Manhole #3 at Station 5 + 30; thence continuing south a distance of 140 feet to a cleanout at Station 6 + 70, said cleanout ends Sanitary Sewer Lateral #1.

Description of Sanitary Sewer Lateral #2

Commencing at Manhole #2 located on the above referenced Sanitary Sewer Lateral #1, thence west a distance of 71 feet to Manhole #4, said Manhole being located within a 20 foot utility easement along the west right-of-way line of Yardley Court; thence south a distance of 349 feet to Manhole #5 at Station 415; thence continuing south a distance of 120 feet to a cleanout located at Station 5 + 70, said cleanout terminates Sanitary Sewer Lateral #2.

Said Sewer shall be 8 inches in diameter and constructed in accordance with plans, specifications and profiles heretofore submitted to the City and now on file in the office of the Chief Engineer of the Water Pollution Control Utilities of the City, and known as Yardley Manor Sanitary Sewer Plans, specifications and profiles are by reference incorporated herein and made a part of this Agreement. The said Sewer will serve only land in which the Developer has in interest.

WHEREAS, the total cost of construction of said sewer is represented to be \$ 24,105⁵⁵.

WHEREAS, the Developer desires to have an operational sanitary sewer system to serve the area of the Developer on or before December 31, 1982, and

WHEREAS, the Developer recognizes that a portion of the area of the Developer is subject to certain area connection charges established by the City,

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

I. CONSTRUCTION OF SEWER:

The Developer shall cause said Sewer to be constructed and located in accordance with said plans, specifications and profiles, all approved by the City under private contract to be let within 30 days after requisite City approval. All work and materials shall be subject to inspection by City and the right of City to halt construction if there shall be noncompliance therewith. Said Sewer shall not be deemed permanently connected into the sewer system of City until final acceptance of City. Upon completion, said Sewer shall become the property of City and City shall accept sewage therefrom, subject to such monthly sewage treatment fees, inspection fees, adopted area charge fees, and permit tap-in fees, as may now or hereafter be regularly established by City, and all further maintenance thereafter shall be borne by City.

II. COST OF CONSTRUCTION:

The local construction cost and engineering services shall be provided by the developer at no cost to the City. The developer shall pay an assessment in the amount of \$3,801.00. This assessment is based upon 8.73 acres, less 2.40 acres for the Maplecrest Road and interior street right-of-way, and less 0.90 acres for Blocks A-B-C park areas, yielding a net acreage of 5.43 acres times \$700.00 per acre, giving a total assessment of \$3,801.00.

The assessment of \$3,801.00 shall be prorated by 12 buildings. One-twelfth of the assessment or \$316.75 shall be paid in full prior to the tapping of each individual building.

In the event any portion of the 0.90 acre park is developed so as to require the use of sanitary sewer service, the acreage assessment must be obtained by the owner of said parcel.

III. AREA OF DEVELOPER:

The said Sewer when constructed and accepted by the City will serve the "Area of the Developer" as shown on Exhibit "A" being 8.73 acres more or less. As the Developer will pay for the total cost of construction of said Sewer, no charge or assessment is made by this Agreement against the "Area of the Developer" for the construction of said Sewer by either the present or future owners of the "Area of the Developer" EXCEPT those which are hereby established by this Agreement and such standard fees as permit tap-in fees, inspection fees, and monthly sewage treatment fees which are customarily and normally charged by the City for any connections into use thereof for the City's sanitary sewer mains and the treatment of sewage therefrom.

IV. AREA CONNECTION CHARGES:

The area connection charges established by the City are hereby made applicable for the total "Area of the Developer" as shown on Exhibit "A".

V. BOND

The Agreement is subject to Developer furnishing a satisfactory Maintenance Bond for the value of the Sewer which shall guarantee said Sewer against defects for a period of one (1) year from the date of final acceptance of said Sewer by the City.

VI. LIMITATION ON USE:

Said Sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owners of any land serviced by said Sewer, shall at any time discharge or permit to be discharged or to flow into said Sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

VII. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION:

"Developer", for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof.

In further consideration and to induce CITY to execute and ratify this contract, said "Developer", for himself, his successors and assigns, agrees by this contract to vest in "CITY" the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

"Developer" further agrees that any deeds, contracts, or other instruments of conveyance made by "Developer", its successors or assigns transferring or conveying any interest in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article which provisions shall run with the land and the acceptance of the delivery of any such instruments from "Developer", his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

"Developer" further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of City as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of "CITY" who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of such land or of the territory in which it is located or of the area served by said sewer. (I.C. 36-9-22-2, as added by Acts 1981, P.L. 309, 395)

VIII. COUNCILMANIC APPROVAL:

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly appointed Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

"DEVELOPER"

Richard Liechty
Richard Liechty, President

SEAL

"CITY"
MAYOR

BY: Win Moses, Jr.

BOARD OF PUBLIC WORKS

BY: Stephen A. Bailey, Chairman

BY: Roberta Anderson-Staton, Member

BY: Betty Collins, Member

ATTEST:

Sandra E. Kennedy
Sandra E. Kennedy, Clerk

APPROVED AS TO FORM AND LEGALITY:

Almonffer
Assoc. City Attorney
ASSOCIATE CITY ATTORNEY

STATE OF INDIANA:

SS

COUNTY OF ALLEN:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Richard Liechty, who acknowledged the execution of the foregoing agreement for sewer extension, as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 1 day of July, 1982.

Betty J. Mitchell
Notary Public
Resident of Allen County

My Commission Expires:

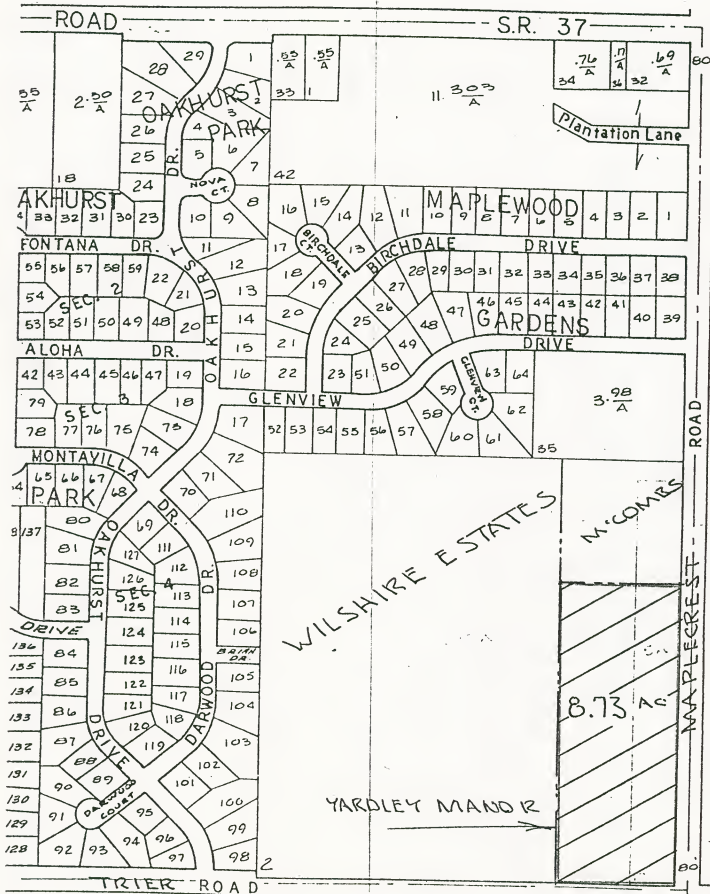
5-5-85

This instrument prepared by
C. Duane Embury, P.E.
Chief Water Pollution Control Engineer

EXHIBIT 'A' AREA OF DEVELOPER

A parcel of land located in the Southeast One-Quarter of the Northeast One-Quarter of Section 28, Township 31 North, Range 13 East, Allen County, Indiana and more particularly described as follows to wit:

BEGINNING at the Southeast corner of the Southeast One-Quarter of the Northeast One-Quarter of Section 28, Township 31 North, Range 13 East, Allen County, Indiana; thence North $0^{\circ}-30'-40''$ East along the East line of the said Southeast One-Quarter of the Northeast One-Quarter a distance of 944.00 feet; thence North $89^{\circ}-11'$ West a distance of 404.35 feet to a point on the East line of Willshire Estates, Section II; thence South $0^{\circ}-21'-20''$ West along the East line of Willshire Estates, Section II a distance of 943.10 feet to the South line of said Southeast One-Quarter of the Northeast One-Quarter; thence South $89^{\circ}-03'$ East along said South line a distance of 401.80 feet to the point of beginning, containing 8.73 acres of land more or less and subject to public roadway easements over the Easternmost and Southernmost 40.0 feet thereof.



TITLE OF ORDINANCE Yardley Manor Sanitary Sewer Extension Agreement

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

S-82-09-20

SYNOPSIS OF ORDINANCE An agreement for a sanitary sewer extension between the
City of Fort Wayne, Indiana and Yardley, Inc., Richard Liechty, President, for the
construction of a sanitary sewer in a development to be known as Yardley Manor.

EFFECT OF PASSAGE use of a sanitary sewer for the area to be developed

EFFECT OF NON-PASSAGE cannot be developed.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) no cost to the city

ASSIGNED TO COMMITTEE _____